

In the Matter of Arbitration

Between)
)
Inland Steel Company) Grievance No. 20-L-75
) Appeal No. 1219
and) Award No. 622
)
United Steelworkers of) Opinion and Award
America, Local 1010)
)

Appearances:

For the Company

T. J. Peters, Arbitration Coordinator, Labor Relations
R. H. Ayres, Manager, Labor Relations, Industrial Relations
W. P. Boehler, Senior Labor Relations Representative
D. F. Kilburg, Labor Relations Representative
D. D. Pyrne, Assistant Director, Personnel
J. J. Matusek, Superintendent, Central Mechanical Maintenance
J. Anderson, General Foreman, Machine Shop, Central Mechanical
Maintenance
J. Negovetich, Foreman, Machine Shop, Central Mechanical Maintenance

For the Union

T. J. Rogus, Staff Representative
W. E. Bennett, Chairman, Grievance Committee
G. Galvan, Secretary, Grievance Committee
G. Chigas, Grievance Committeeman
T. Mills, Grievant

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The grievant, T. Mills, a Machinist in Plant 1 Machine Shop, complains that he was denied promotion to a temporary vacancy due to an extended vacation in the occupation of Grinder Tool Leader. He has been employed by the Company for some 20 years and is established in the Machinist Sequence of this plant. The contract provisions cited are Article 2, Section 2; Article 4, Section 2, Article 9, Section 4; and Article 13, Sections 1 - 6.

The regular incumbent of the Leader position was on extended vacation from June 2 to August 31, 1974. On July 17, 1974 this position was given to J. Kroll, also a Machinist, who since April, 1973 had been

assigned to the occupation of Tool Grinder. This assignment was made to him because he had had a heart condition in 1972 and Tool Grinder work is less strenuous than that of Machinist.

When the Company considered whether to promote Grievant or J. Kroll it maintains it followed the provisions of Article 13, Section 6 (Paragraph 13.26) which direct that "temporary vacancies ... and 13-week vacation vacancies under Article 17 shall be filled by the employee within the sequence who is entitled to the vacancy under the provisions of this Article."

As of July 17, 1974 when this promotion was made to fill the temporary vacancy in the position of Grinder Tool Leader, Grievant had the greater length of continuous service, and, so far as revealed by the evidence, the two applicants were equal in physical fitness for this occupation. The Company, however, determined that J. Kroll had superior ability to perform the work. This was because he had worked for a period as Tool Grinder, while Grievant's knowledge of this work stemmed largely from the training he had received 15 years ago during his apprenticeship program.

There is a two-step Tool Grinding Sequence which is separate from the Machinist Sequence.

Grinder Tool Leader is the top occupation in the Machinist Sequence. It emanates from the Machinist Sequence and is of a skilled nature. The incumbent must have Journeyman Machinist skills and is required to be able to design, form, and grind any special tool; interpret complex blueprints, and to supervise and instruct tool crib personnel, tool grinding personnel, and apprentices assigned for training in that function.

J. Kroll is without dispute a qualified Machinist, just as Grievant is. Grievant, however, has not worked in the tool grinding section and acknowledges that he is not familiar with all the techniques and machines now in use in this section and admits he would require training to be able to grind some of the typical tools. In these respects Mr. Kroll has greater ability to perform the functions and to meet the responsibilities of the Leader occupation.

Article 13 describes and applies the seniority provisions of the parties' collective bargaining agreement. At Inland there has long been a system of seniority sequences which takes into account logical work relationships, supervisory groupings and geographic locations and definite lines for promotion and demotion.

Seniority does not consist merely of length of service. In Section 1 of Article 13 it is stated that:

" 'Seniority' as used herein shall include the following factors:

- "a. Length of continuous service as hereinafter defined;
- "b. Ability to perform the work; and
- "c. Physical fitness.

The contract stipulates that where two employees are competing for a given position the Company is the judge as to relative ability and physical fitness and if the employees are equal as to these two factors then length of continuous service governs. If the Company's evaluation is objected to and the personnel records do not establish a differential in the abilities of the two employees, a reasonable trial period of not less than 30 days shall be allowed the employee with the longest continuous service record.

The matter of the relative ability of employees seeking a given promotion has been the subject of a number of awards at Inland running back almost 25 years to Award No. 46. Five such awards were cited or quoted at our hearing. ^{*}/ They were made by four different arbitrators and they are all consistent. Where there is a differential in favor of one employee in ability to perform the work of the position in question, this is controlling. Greater length of service prevails only if the other factors are equal. In view of the awards made interpreting or applying the Inland contract seniority provisions, there is no reason for looking to awards made under other contracts, particularly where there is not a system of sequential seniority as at Inland.

The question before us is whether on July 17, 1974, when the Company assigned to Mr. Kroll the temporary vacancy as Grinder Tool Leader which was to end on August 31, 1974 when the regular incumbent returned from his extended vacation, Mr. Kroll had superior ability to perform the work and meet the responsibilities of this Leader position.

^{*}/ Arbitration No. 46, Grievance No. 15-C-26, March 12, 1951,
Arbitrator Albert I. Cornsweet;
Arbitration No. 258, Grievance No. 12-F-37, May 6, 1958,
Arbitrators Peter Seitz and David L. Cole;
Arbitration No. 372, Grievance No. 4-F-25, November 7, 1960,
Arbitrator David L. Cole;
Arbitration Award No. 452, Grievance No. 21-G-6, May 1, 1962,
Arbitrator Peter M. Kelliher;
Arbitration Award No. 459, Grievance No. 17-G-39, January 23,
1962, Arbitrator Peter M. Kelliher.

The Company maintains that Mr. Kroll's superior ability is established by the personnel records of the two employees involved.

It is the position of the Union that Grievant, T. Mills, was qualified and capable of filling the job, since he was an established Machinist and the Leader position is the top position in the Machinist Sequence. As stated above, the Tool Grinder Sequence is a separate two-step sequence. The Union's view is that if Grievant is held not to be qualified because he has not worked in tool grinding, then these sequences were improperly designed, structured or administered, for Grievant was excluded from the vacancy in question because the Company chose not to assign him to tool grinding work.

The job description of Grinder Tool Leader makes specific reference to grinding machines, grinding wheels and procedures, the grinding of special high speed and tungsten carbide tools, and the setting up and operation of grinding machines for grinding a large variety of machine shop tools. It calls for the supervision of 1st and 2nd class Grinders and Tool Crib Attendants. It also requires the Leader to apply Journeyman Machinist skills. Without such Machinist skills an employee could not qualify for the Leader position. But the qualification requirements are more than this.

Grievant's training and experience in tool grinding were acquired during his apprenticeship, which was 15 years ago. He has been performing typical Machinist work since then but has not worked in tool grinding as such. Other Machinists are assigned when there is an excessive amount of such work to be done, and, occasionally as was done in Mr. Kroll's case, when for physical reasons a less strenuous type of work is advisable.

Grievant's personnel record shows three reprimands for careless work while J. Kroll's record in this respect is clear. The records of course indicate Mr. Kroll's experience in tool grinding from April 1973 on as contrasted with Grievant's non-exposure to such work.

At our hearing, Grievant acknowledged he was not familiar with the work of grinding some of the typical tools and that he has not been exposed to some of the grinding techniques or equipment that have come into use since his apprenticeship.

It is, of course, possible that by the assignment of employees to work which has a bearing on the ability to perform the work of a higher classification Management can exert influence over the qualifications of employees when they seek promotion to the higher position. But this is not the issue raised by this grievance. Our issue is whether in fact there was a differential in the relative abilities of Grievant and J. Kroll to fill the temporary vacancy in the Tool Grinder Leader position as of July 17, 1974.

Although further support of this holding would not seem to be necessary, it happens in this instance that Grievant, who is a Union Steward, interceded with the Company in 1973 after Mr. Kroll's illness to urge his assignment to tool grinding work.

Since the personnel records indicate that J. Kroll has superior ability by virtue of having recently worked as Tool Grinder for more than a year while Grievant has not had the benefit of such experience, which has a definite effect on important features of the Leader occupation, Grievant is not entitled to insist upon a 30-day trial period.

If Grievant's complaint is that the Company did not assign him to tool grinding or that the respective sequences should be restructured, that is another matter which goes beyond the scope of the grievance. The grievance under consideration asserts essentially that Tom Mills had more seniority than the Machinist who was given the Grinder Tool Leader job and that he was therefore entitled to the promotion. As indicated, under the parties' agreement seniority encompasses more than length of continuous service.

AWARD

This grievance is denied.

Dated: August 26, 1975

/s/ David L. Cole

David L. Cole, Permanent Arbitrator

The chronology of this grievance is as follows:

Step 3 Appeal	July 23, 1974
Step 3 Hearing	October 9, 1974
Step 3 Minutes	December 23, 1974
Step 4 Appeal	December 30, 1974
Step 4 Hearing	February 27, 1975
Step 4 Minutes	April 30, 1975
Appeal to Arbitration	May 12, 1975
Arbitration Hearing	July 29, 1975
Arbitration Award	August 26, 1975